

APPEAL NO. BOA#17-5811
NORTHEAST PASSAGE,
CORP.
USE AND BULK
VARIANCES
CONSTRUCTION OF A
CONVENIENCE STORE
IN THE R-150
ZONE
BLOCK 344 LOTS 19 & 20
ZONE R-150
545 FOREST HILLS
PARKWAY & GRAND
CENTRAL PARKWAY
BERKELEY

RESOLUTION OF THE MEMORIALIZATION OF THE BERKELEY
TOWNSHIP BOARD OF ADJUSTMENT APPROVING A USE VARIANCE AND
BULK VARIANCES
PURSUANT TO N.J.S.A. 40-55D-70(D)(C) FOR BLOCK 344 LOTS 19 & 20

WHEREAS, an application has been made by Northeast Passage, Corp., for the granting of bulk and use variances pursuant to N.J.S.A. 40:55D-70(c)(d) for Block 344 Lots 19 & 20,. so as to permit the applicant to construct a convenience store in an R-150 Zone where commercial use is non-permitted in addition the applicant is seeking waivers for freestanding and directional signs #35-91.8, wall mounted sign #35-91.

WHEREAS, the Berkeley Township Zoning Board of Adjustment has considered the application, has held public hearings on 8th day of November 2017, and on the 13th day of December 2017 and has taken testimony and received the report of its professional staff, the Zoning Board does hereby make the following findings of fact:

1. The applicant has a proprietary interest in the property.
2. The applicant has requested the granting of variances in accordance with the Ordinances of the Township of Berkeley.
3. The applicant was represented by H. Alton Neff Esq.
4. The applicants Engineer Daniel Dougherty P.E of Dynamic Engineering, testified on behalf of the application.

5. The applicant's traffic expert Nicholas Verdaere of Dynamic Engineering testified on behalf of the application.
6. The applicant's planner, John McDonough P.P. of Dynamic Engineering testified on behalf of the application.
8. The application is being bifurcated; in this phase the applicant is seeking bulk and use variances if the Board grants the variances, then the applicant will apply for site plan approval.
9. The character of the subject site has changed dramatically in the 30-40 years since the existing dwelling on the site was constructed. Central Regional High School was constructed directly across the street from the subject site thereby altering the area dramatically by increasing the traffic flow on Grand Central.
10. A parkway ramp and entrance was constructed and opened within the last 10 years, within 150 yards of the subject property thereby again increasing the traffic volume massively.
11. A rehabilitation facility which was previously a motel was constructed in the 1920's/1930's and has been in continuous use since that time in the zone.
12. There is currently a golf course with a fully functioning restaurant in the zone.
13. A veterinarian had previously maintained an office in the zone.
14. An LED sign constructed by Central Regional High School is directly across the street from the subject site. The presence of this sign has diminished the quality of life for any occupant of the existing structure.
15. The home currently on the site has been for sale for a period of at least one year with no buyers.
16. The applicant's traffic expert testified that the project will not have any impact on the traffic flow and patterns in the community.
17. The property in question is ideally suited for a convenience type store.
18. The majority of the clientele of the proposed facility will be the result of passby traffic rather than originating new traffic.
19. The site is located on the edge of the residential zone rather than in the center of the residential zone.
20. The existing volume of traffic does not make the site conducive to the family living as it poses a hazard to pets and small children.
21. The customers to the store will only increase traffic by 3% or 71 cars which is a de minimis number given the existing volume on the street.
22. The area has markedly changed since the original designation of the zone as an R-150 zone.
23. Ursula Donat of 556 Forest Hills Parkway testified that she had been residing in the area for 40 years and the area is already commercial for all practical purposes and she had no objection to the project.
24. David Moen 355 Dorsey Lane also testified the zone has become for all practical purposes commercial and did not see any negative impact from the proposed convenience store.

25. Mrs. Ledoux, who resides directly behind the proposed site spoke in opposition to the project stating that it would hamper the quality of life by having traffic 24 hours per day, increased traffic, garbage, noise and the presence of undesirables.

26. Kate Rizzo 552 Forest Hills Parkway also opposed the project for the same reasons as Mrs. Ledoux.

27. The Board is satisfied that the purposes of the Municipal Land Use Law will be advanced by the deviation from the ordinance and that the benefits of this deviation will Substantially outweigh any detriment as an appropriate use, will promote the public health, safety, morals and general welfare, with provide light, air, and open space and Provide for additional uses associated with the permitted business use. This is particularly based upon the testimony of the expert witnesses which was un-refuted and are totally credible. Taken together that testimony showed that there is a specific need for the proposed facility given the nature and demographics of Berkeley Township and it's the dramatic change of the area. The site was specifically suited for this use of being a convenience store. It is the promotion of these benefits that the purposes of zoning would be advanced by the approval granted herein.

28. The Board is satisfied that the granting of the variances as recited above will not have a substantial detriment to the public good and will not substantially impair the intent and purposes of the Zoning Plan and Zoning Ordinance of the Township of Berkeley.

NOW, THEREFORE, be it resolved by the Zoning Board of Adjustment of the Township of Berkeley, County of Ocean, State of New Jersey, that the Board does hereby grant and approve the, use variances for Block 344 Lot 19 & 20 for the demolition of the existing structure in the R-150 Zone the construction of a convenience store subject to the following:

1. Proof of approval and/or waivers from all agencies having jurisdiction including Waterfront Development, Flood Plain Management, CAFRA, Ocean County Soil Conservation, Berkeley Township Sewerage Authority and Berkeley Township Municipal Utility Authority.
2. The matters agreed to by the Applicant as set forth in the Findings of Fact above are hereby made conditions of this approval and shall be binding on the Applicant.
3. The variance shall expire and no longer be valid unless site plans are submitted within 18 months from the date of this resolution.
4. Payment of all outstanding professional fees of the Board and Township.
5. The applicant shall submit a new detailed traffic study, acceptable to a majority of the Board prior to the submission of its site plan application; the traffic study will then be heard at the site plan hearing.
6. Any bulk variances will be heard at the site plan hearing and determined at that time.

The foregoing Resolution was duly passed and adopted by the Berkeley Township
Zoning Board of Adjustment on the 10th day of January, 2018, by the following vote:

YES:	<u>5</u>
NO:	<u> </u>
ABSTAIN:	<u> </u>
DISQUALIFIED:	<u> </u>
ABSENT:	<u> </u>

ATTEST:

BERKELEY TOWNSHIP ZONING
BOARD OF ADJUSTMENT


EDWARD F. GUDAITIS
Secretary


By: RICHARD ELLIOTT
Chairman